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STATUTORY RULES OF NORTHERN IRELAND

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**1996 No. 541**

**The Child Support Departure Direction and Consequential Amendments Regulations (Northern Ireland) 1996**

**Part VII**

**Effective Date and Duration of a Departure Direction**

**Effective date of a departure direction**

**32.**—(1) Where an application is made on the grounds set out in Article 28A(2)(a) of the Order (the effect of the current assessment) and that application is given or sent within 28 days of the date of notification of the current assessment (whether or not that assessment has been made following an interim maintenance assessment), a departure direction given in response to that application shall take effect—

- (a) where it is given on grounds that relate to the whole of the period between the effective date of the current assessment and the date on which that assessment is made, on the effective date of that assessment;
- (b) in a case not falling within sub-paragraph (a), on the first day of the maintenance period following the date upon which the circumstances giving rise to that application first arose.

(2) Where an application is made on the grounds set out in Article 28A(2)(a) of the Order (the effect of the current assessment) and that application is given or sent later than 28 days after the date of notification of the current assessment (whether or not that assessment has been made following an interim maintenance assessment)—

- (a) subject to sub-paragraph (b), a departure direction given in response to that application shall take effect on the first day of the maintenance period during which that application is received;
- (b) where the Department is satisfied that there was unavoidable delay, it may, for the purposes of determining the date on which a departure direction takes effect, treat the application as if it were given or sent within 28 days of the date of notification of the current assessment.

(3) The provisions of paragraphs (1) and (2) are subject to the provisions of paragraph (6) and of regulations 47 and 48.

(4) Subject to paragraph (6), where an application for a departure direction is made on the grounds set out in Article 28A(2)(b) of the Order (a material change in the circumstances of the case since the current assessment was made), any departure direction given shall take effect on the first day of the maintenance period during which the application was received.

(5) An application may be made on the grounds set out in Article 28A(2)(b) of the Order only if the material change in the circumstances on which it is based has already occurred.

(6) Where—

- (a) an application has been determined in accordance with regulation 15(4)(b);

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- (b) a subsequent application is made with respect to special expenses falling within regulation 15(1) each of which is an expense in respect of which the earlier application was made; and
- (c) the Department is satisfied that there was good cause for the applicant or his dependant not applying for disability living allowance or, as the case may be, attendance allowance within the six week period specified in regulation 15(4)(a),

any departure direction given in response to the later application shall take effect from the date that the earlier direction had effect, or would have had effect if an earlier direction had been given.

(7) Where, under the provisions of regulation 4(12), a later application is treated as an application in respect of grounds for which the earlier direction was given, or in respect of grounds for which the earlier direction was given in relation to which there have been no changes of circumstances, and a direction is given, that direction shall take effect in accordance with the provisions of paragraphs (1), (2) and (4) as applied to the additional grounds or, as the case may be, the grounds in respect of which there has been a change of circumstances, and the earlier direction shall cease to have effect immediately before the coming into force of that direction.

(8) Where a direction is given following an application that is treated as having been made by virtue of the provisions of regulation 4(13), that direction shall take effect on the first day of the maintenance period during which the Department is satisfied that a ground in respect of which the application for the earlier direction was made no longer applies, and the earlier direction shall cease to have effect immediately before the direction that is given takes effect.